

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF CAPITAL)
TELECOMMUNICATIONS, INC. FOR AUTHORITY)
TO PROVIDE LOCAL EXCHANGE SERVICES AND)
INTEREXCHANGE SERVICES THROUGHOUT)
NEW JERSEY)

ORDER

DOCKET NO. TE03010047

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated January 24, 2003, Capital Telecommunications, Inc. ("Petitioner" or "CTI") filed a Petition with the Board of Public Utilities ("Board") requesting authority to provide all forms of local exchange and interexchange telecommunications service including facilities-based services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information in Exhibit D of its Petition. Pursuant to the Open Public Records Act N. J. S. A. 47: 1A-1 et seq., the Petitioner has submitted its financial information under seal and has included a sworn affidavit with substantiation for confidential treatment in order to limit the availability of proprietary information.

CTI was incorporated under the laws of the State of Pennsylvania on August 26, 1982. Petitioner's principal offices are located at 200 West Market Street, York, Pennsylvania 17401.

Petitioner submitted copies of its Articles of Incorporation, New Jersey Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, CTI was formed to provide facilities-based local exchange services and interexchange telecommunications services throughout the state of New Jersey. Petitioner states that it has been operating for 20 years and currently provides local, long distance, data and internet services in the states of Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Texas, Virginia and the District of Columbia. CTI is also currently providing resold services in New Jersey. CTI operates five Nortel DMS 250/500 switches for the provisioning of certain telecommunications services. Petitioner states that it has not been denied authority to provide telecommunications services in any state and has not had its authority to provide telecommunications service revoked in any state.

In its Petition, Petitioner intends to provide both local and interexchange telecommunications services in the state of New Jersey. Petitioner will provide local exchange services utilizing the unbundled network elements of the Incumbent Local Exchange Carrier and interexchange services through its existing network facilities. The Petitioner seeks authority to provide services that (1) allow its customers to originate and terminate local calls to customers served by CTI as well as customers served by all other authorized local exchange carriers; and (2) provide switched access services to interexchange carriers, thus allowing CTI's customers to originate and terminate intrastate and interstate calls to and from the customers of interexchange carriers. CTI seeks expanded authority to provide facilities-based local exchange and interexchange services. According to the Petition, service will be available 24 hours a day, 7 days a week. The toll-free number for customer service inquiries is (800) 673-2400. CTI will submit its proposed initial interexchange and local exchange tariffs to the Board by separate filing.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8, N. J. A. C. 14:1-4.3 and 14:10 -1.16, which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in York, Pennsylvania. Petitioner also states, upon written notice from the Board, it will produce any required books at such time and place as the Board may designate and will pay any reasonable expenses or charges incurred by the Board for any investigation that necessitates examination of Petitioner's books.

Petitioner asserts that approval of this Petition will further the public interest by expanding the availability of competitive telecommunications services in the state of New Jersey. In addition, intrastate offering of these services is in the public interest because the services will provide New Jersey customers with access to new technologies and service choices, and will permit customers to achieve increased efficiencies and costs savings. Petitioner also asserts that approval of this Petition will provide multiple public benefits by providing users of telecommunications services with greater reliability and by increasing the competitive choices available to users in the state. In addition, increased competition will create incentives for lower prices, more innovative services and more responsive customer service. Expedited approval of CTI's entry into the intrastate telecommunications services market thereby will enhance materially the telecommunications infrastructure in the state of New Jersey and will facilitate economic development.

With regard to its technical and managerial qualifications, the experience of Petitioner's principals, described in Exhibit G, demonstrates that the Petitioner has the managerial capability and technical qualifications to operate as a facilities-based local exchange services and interexchange services provider throughout the state of New Jersey.

Petitioner states it is a privately held corporation and maintains that its financial information is confidential and will therefore be submitted under seal.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed CTI's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange services and interexchange telecommunications services throughout New Jersey subject to approval of its tariff and submission of pro forma financials for its New Jersey operations. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

On or before February 1st of each year, the Petitioner will receive, from the Division of Audits, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA. As for Petitioner's request for confidential treatment of the financial information in Exhibit D, the Board shall handle such requests for confidential treatment in accordance with the Board's proposed regulations at N.J.A.C. 14:1-12, et seq.

DATED: 4/24/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY

IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING
CAPITAL TELECOMMUNICATIONS, INC. TO PROVIDE FACILITIES-BASED
LOCAL EXCHANGE SERVICES AND INTEREXCHANGE SERVICES
THROUGHOUT THE STATE OF NEW JERSEY
DOCKET NO. TE03010047

SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Kyle Dickson, Vice President Strategy & Bus. Development/Gen. Counsel 82575 El Rio, Suite 110 Houston, Texas 77054	5	Board's Staff: Walter Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: Richard P. De Angelis, Jr. Courter, Kobert, Laufer & Cohen, P. C. 101 Route 517 Hackettstown, New Jersey 07840	6	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayers Advocate: Seema M. Singh, Esquire Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	7	Board's Staff: James F. Murphy, Chief Bureau of Revenue Requirements Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
4	Ratepayers Advocate: Ava-Marie Madeam, Esquire Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	8	Board's Staff – DAG: Peter Tanella Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box. 45029 Newark, New Jersey 07102